TELLS THE FACTS AND NAMES THE NAMES

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Newsletter Journal

Megrahi's Release: How Libya Was Framed for the Lockerbie Bombing

By Alexander Cockburn

There were howls of fury when the Scottish justice minister released from his Scottish prison Abdelbaset Ali al-Megrahi, the Libyan Arab Airlines official convicted of planting the bomb on board Pan Am Flight 103 that killed 281 people on the plane and in the village of Lockerbie on December 21, 1988. Megrahi's colleague, Lamen Khalifa Fhimah, was acquitted of charges in the terrorist attack. Across Limbaugh-land vitriol was sprayed in the general direction of both Scotland and Libya. FBI Director Robert Mueller, who in 1991 was assistant attorney general in charge of the investigation of al-Megrahi, wrote that he was "outraged at the decision, blithely defended on the grounds of 'compassion.'" (Megrahi is suffering from terminal prostate cancer.)The Scottish government hit back, saying that while "compassionate release" might not be part of the U.S. justice system, it was a proper part of Scotland's.

Actually, the "compassionate" release may have been prompted by rather more mercenary or self-interested calculations. There have been allegations in the U.K. of Megrahi's release being part of a larger British deal with Libya involving trade agreements and arms sales. It is certain that the release aborted Megrahi's appeal, which would have thrown a lurid and unflattering light on the kangaroo trial in 2000. This was a particularly dark day for the reputation of Scottish justice since it showed clearly that the Scottish bench clicked its heels to commands from Westminster that no matter how threadbare the case against Megrahi was, he

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Pharmaceutical Imperialism and the Global Trade In Psychotherapeutics

By Eugenia Tsao

The pain in our shoulder comes
You say, from the damp; and this is also the reason
For the stain on the wall of our flat.
So tell us:
Where does the damp come from?
– Bertolt Brecht, "A Worker's Speech to a Doctor" (1938)

In 1965, a young woman from a drought-wracked village in northeast Brazil was indicted on two counts of murder: she had smothered her infant son and hacked her one year-old daughter to pieces with a machete. Incarcerated in the city of Bom Jesus da Mata in a cell with a single street-facing window, the woman became, for a brief time, something of a sideshow attraction for passersby who delighted in assailing her with invective. When queried about her motives one afternoon by anthropologist Nancy Scheper-Hughes, the woman could say only that it was "to stop them [her children] from crying for milk." Scheper-Hughes later recounted the conversation to a Brazilian friend, who shook her head sadly and attributed the double homicide to *delírio de fome* – hunger-madness – a psychopathological condition that arose from prolonged starvation. *Delírio de fome*, Scheper-Hughes soon discovered, was rife throughout the region. Hunger, no longer understood as a result of nutritional deprivation, had been normalized to such an extent that local medical authorities would acknowledge only its final, maddening stages as a cause for concern. Manageable with the aid of tranquilizers, painkillers, and sleeping pills imported from the United States, Germany, and Switzerland, *delírio de fome* would become, in the ensuing years, a national codeword for mental instability rather than a symptom of socioeconomic inequality.

Around the world, images of health and happiness are increasingly correlated with access to pharmaceuticals. In 2003, global pharmaceutical spending approached half a trillion dollars, and the top ten drug companies enjoyed a profit of 14.3 per cent of their annual sales (compared with a 4.6 per cent median for other industries). While infectious diseases such as HIV/AIDS that disproportionately afflict impoverished societies remain undertreated, global markets for psychotherapeutic drugs have rapidly ballooned: international sales of antidepressants rose by 5 per cent in 2002, while sales of antipsychotics grew a breathtaking 19 per cent. Over the past decade, moreover, worldwide antidepressant sales have risen dramatically among low-income groups, who have been relentlessly urged by a multibillion-dollar public relations industry to conceptualize mental health as a purchasable commodity and, thus, a problem of consumer choice.

Behind these figures lies a tangle of uneasy questions concerning the traditional flow of resources and labor from the South to the North, and the role of corporate science in propagandizing captive populations. While the myth of universalism in biological psychiatry – which insists that the feelings of stress, anxiety, depression, vulnerability, resentment and fatigue that suffuse neoliberalized societies are best understood as congenital defects – has been a boon to multinational pharmaceutical firms and private insurance companies the world over, blinkered conceptions of psychic suffering acquire especially ironic undertones in regions subject to the depredations of the

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IMF and World Bank. What does it say about the global culture of capitalism – not to mention the Hippocratic ethos of Western biomedicine – when doctors in rural Brazil can only send hungry sugarcane-cutters home with bottles of anxiolytics and anticonvulsants to subdue the quivering of their malnourished limbs? Or, when dilapidated Argentinean hospitals have to begin arbitrarily assigning diagnoses of bipolar disorder to patients in exchange for direly needed grants from foreign biotechnology companies?

In August 2001, as Argentina entered its fourth year of recession, a public education campaign sponsored by a domestic manufacturer of the antianxiety agent Tranquinil (alprazolam, available as Xanax in the United States) was launched in Buenos Aires. "Anxiety Disorders Week," it was called. Newspaper pages were peppered with prominent advertisements, grimly advising readers that one in every four Argentines suffers from phobias marked by feelings of insecurity about the future. The campaign, as the University of California's Andrew Lakoff details in his recent book *Pharmaceutical Reason: Knowledge and Value in Global Psychiatry*, was successful beyond its sponsors' wildest dreams: hospitals were deluged with patients complaining of panic attacks and symptoms of stress. Anxiolytic prescriptions predictably spiked, marking the tail end of a period of hyper-recession wherein national unemployment rates grew to 20 per cent and net income from antidepressant sales leapt 16.5 per cent within just twelve months.

This episode throws into sharp relief the relations of institutionalized collusion between multinational drug firms, public health officials, and third-party insurance providers characteristic of the global trade in psychotherapeutics. As Lakoff points out, "the model of rational consumer choice assumed by the strategy of deregulation is clearly an inappropriate one for the pharmaceutical market, which is inherently 'imperfect': the one who chooses the drug is not the one who consumes it, and the one who consumes is not (or often is not) the one who pays for it." Within the first five years of the IMF's ravaging of the Argentinean economy in the early 1990s, total pharmaceutical revenues rose 70 per cent: the privatization of healthcare and deregulation of drug prices meant that stressed and suicidal Argentines without private insurance were denied therapeutic alternatives to increasingly expensive antidepressants and antianxiety agents. At the same time, spooked by the proliferation of unlicensed copies of their patented compounds, multinationals like GlaxoSmithKline and Pfizer ramped up their efforts to encourage Argentinean psychiatrists to prescribe Paxil and Zoloft by sending them on free trips to prestigious North American and European scientific congresses (otherwise unaffordable for most researchers in the global South) and supplying them with free samples of brand-name product (cherished commodities in underfunded state hospitals).

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At the height of the Argentinean debt crisis, the French biotechnology company Genset initiated a collaboration with an underfunded Buenos Aires hospital: medical residents would gather blood samples from patients diagnosed with bipolar disorder (DSM-IV-TR 296.0-296.4) and dispatch them on ice to France, and, in exchange, the hospital would receive $100,000. Hoping to identify and patent the genes linked to bipolar disorder on a shoestring budget, Genset had decided to outsource the untidy business of blood collection to Argentina due to the country's relaxed regulations on genetic research and intellectual property. The Argentinean clinicians' own participation in the scheme was no less cynical, however. Most were quite candid in their discussions with Lakoff that they saw the vaunted *Diagnostic and Statistical Manual of Mental Disorders* (DSM) - see Tsao's article in *CounterPunch,* vol. 16 no. 12 - as little more than "a catalogue for marketing pharmaceuticals." And, although they diligently made the required diagnoses in order to procure the coveted blood samples, they acknowledged they did so chiefly to clinch the $100,000 lifeline and, thereby, to secure enough cash to maintain the hospital's existing stock of psychotherapeutics.

The pattern delineated above is not unique to Argentina. When social supports are dismantled, drugs must take up the slack; the bureaucratic imperative to stay within budget and maintain high patient turnover rates is a prime mover of psychotropic overprescription around the world. For doctors in desperately understaffed public clinics throughout the global South, the temptation to prescribe new, increasingly potent chemicals to stem the spreading mass misery can be almost irresistible in the absence of easy alternatives. Indeed, when Scheper-Hughes returned to northeast Brazil in the 1990s, she discovered that the long-acting antipsychotic injection Prolixin (fluphenazine) had become the latest tonic for famished laborers, who continued to blame dizziness and shortness of breath on their own bodies and brains. In India, where over a decade of structural adjustment has led to both the widespread collapse of agricultural markets and soaring suicide rates, antidepressant sales are so reliable that marketing managers for best-selling brands no longer bother to advertise them: a 2005 study sponsored by the World Health

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Organization (WHO) found that generic Prozac (fluoxetine) is sold in 77 per cent of Indian medicine shops, making it more widely available throughout the country than the household painkiller ibuprofen; it even comes in a liquid form for easier absorption. In Mexico, where widespread privatization in the early 1990s shriveled wages and lengthened the average workday, imports of methylphenidate increased from 0 to 4.7 million S-DDD ("defined daily doses for statistical purposes") between 1990 and 2002. Notorious in North America as the psychostimulant Ritalin, methylphenidate is better-known to many Mexican workers as a treatment for daytime drowsiness and lethargy.

As the IMF and World Bank traipse across the globe, stripping people of their livelihoods and dignity, it's like stealing pennies out of a blind man's begging bowl for pharmaceutical representatives to flit into impoverished clinics with their neurochemical palliatives, churning public trauma into private profit under the guise of humanitarian concern. It is difficult to overestimate the profits to be made from the globalization of DSM psychopharmacology. Since 1994, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, administered through the WTO) has afforded worldwide patent protection to multinational pharmaceutical firms: TRIPS illegalised the reverse-engineering of patented molecules, thus depriving small biotechnology companies of a vital source of revenue and effectively allowing multinational heavyweights a monopoly over burgeoning Southern markets. For firms like Eli Lilly and Pfizer, the prospect of accessing a vast, relatively untapped pool of anxious and immiserated consumers in developing countries has been nothing less than a coup, enabling the rapid recovery of profits lost following a long-anticipated wave of patent expirations around the turn of the millennium.

In its 2001 World Health Report, the WHO announced that psychiatric disorders – led by depression, alcoholism, and self-injurious rituals – had come to account for fully 12.3 per cent of the global "disease burden," a measure of the social impact of illness based on projected mortality and morbidity rates, losses in financial productivity, and other factors linked to premature death. Of the total number of years lived with disability, mental disorders accounted for fully 31 per cent, with depression as the leading cause. Yet, as University of Edinburgh researchers Stefan Ecks and Soumita Basu point out in a paper in *Transcultural Psychiatry*, "it seems odd that rates of depression should have multiplied by a factor of 1,000 since antidepressants were marketed." It is odder still that billowing rates of psychiatric illness and concomitant increases in worldwide psychotherapeutic sales are more often attributed to the onward, upward march of biomedical science – that is, the "discovery" of more and more instances of undiagnosed maladjustment in developing regions – than to the intensifying structural violence to which most of the world's population is subject. It is, of course, true that pain and anguish are spreading, along with the sundry coping mechanisms toward which the pained and anguished turn. But it is also true that to pathologize pain is to evacuate it of political meaning – a move that is serviceable not only to the profiteering of pharmaceutical firms but to the interests of those who would gleefully take any excuse to dismiss their victims' grievances as irrational.

The question that now confronts us is whether the transnational epidemiology patterns described above bear out the drug industries' argument that their business practices, however venal, are ultimately defensible because they help benighted people recognize their mental suffering as medically remediable. Is it true, in other words, that the increasingly angry, anxious and anguished multitudes of the global South in fact benefit from the diligent diagnostic and prophylactic efforts of DSM-trained psychiatrists and public health authorities?

The answer to this question may be surprising to those of us enculturated into cherished Western chauvinisms identifying mental health as the exclusive privilege of the scientifically enlightened. Anthropological studies regularly reveal that the imposition of psychiatric diagnoses upon people is itself pathogenic, serving to normalize violence while stigmatizing injury, and resulting in the internalization of clinical expectations. That is, when an unemployed Argentinean worker is sent home from the doctor's office with a bottle of anxiolytic capsules, having been told that she has a neurochemical syndrome known as Generalized Anxiety Disorder (DSM-IV-TR 300.02), she is likely to begin experiencing more panic attacks and is less likely to appreciate the legitimacy of her dread at escalating food prices. Psychiatry is unique among the medical specialties in that its diagnostic classifications intrinsically deny the rationality of the diagnosed, thus encouraging self-contempt; as the philosopher of science Ian Hacking points out in his book *The Social Construction of What*, such labels, "when known by people or by those around them, and put to work in institutions, change the ways in which individuals experience themselves – and may even lead people to evolve their feelings and behavior in part because they are so classified."

Kim Hopper, a researcher at the Nathan S. Kline Institute for Psychiatric Research, has additionally revealed that the WHO's studies of severe mental disorders such as schizophrenia, functional psychoses, and major depressive disorders consistently find better outcomes for afflicted individuals in developing regions, where family supports are more widely available and employment opportunities are flexible, than in the developed world, where treatment is more likely to be narrowly pharmaceutical. In

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a similar vein, the Harvard researcher Byron Good writes, "Where such illness is considered inevitably chronic, an essential part of the self that cannot be altered … the illness is more likely to be chronic." By contrast, as a prodigious amount of ethnographic literature has shown, mental illness is far less functionally debilitating in societies where it is understood as ephemeral rather than congenital, and invested with philosophical meaning through rich cultural idioms like spirit possession and trance.

Such findings throw into serious doubt the Hippocratic alibis of the drug barons and their proxies. It is not my intent to either romanticize the world's have-nots or impugn the philanthropic impulse of doctors who, forced to make therapeutic decisions in severely constrained circumstances, may have no choice but to salve their patients' psychic wounds with chemical prostheses and make diagnoses that they themselves find suspect. It is, however, incumbent upon us to ask whose interests are served when unruly citizenries are chemically pacified, particularly in a global polity marked by such ruthless asymmetries of wealth and health. Like any other industry, the psychopharmaceutical sector is profit-based and cannot be expected to promote views of illness that are unfavorable to their economic interests; indeed, they are obliged to actively discredit such views. Meeting Wall Street growth expectations has become an increasingly daunting task as pharmaceuticals companies' patents on their blockbuster molecules sequentially expire, opening the international market to a flood of generics. In order to keep pace with investors' hopes, the multinationals must usher three to five new compounds into domestic markets per year, or, as we have seen, compensate for fiscal shortfalls by growing markets abroad. If an unintended outcome of this strategy is the excision of historical depth and geographic breadth from local understandings of oppression, that is just a happy coincidence for ruling elites. **CP**

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had to be convicted. But now the thousands of pages of Mehrahi's appeal go into the trash bin and Megrahi will, in the complacent words of a Scottish government spokesman, "die a convicted man."

There's a famous passage in *Memorials of His Time*, my great-great grandfather, Lord Cockburn's memoirs, where the renowned Scotch judge and leading Whig stigmatizes some of his Tory predecessors on the bench, including the terrible Lord Braxfield, who presided over what Cockburn called "the indelible iniquity" of the sedition trials of 1793 and 1794. "Let them bring me prisoners, and I'll find them law," Cockburn quotes Braxfield as saying privately, also whispering from the bench to a juror he knew, "Come awa, Maister Horner, come awa, and help us to hang ane o' thae daamned scoondrels."

Braxfield most certainly has his political disciples on the Scottish bench in the Lockerbie trial in 2000, in the persons of the three judges who traveled to the Netherlands to preside over the trial of the two Libyans charged with planting the device that prompted the crash of Pan Am Flight 103. In a trenchant early criticism of the verdict, Hans Koechler, a distinguished Austrian philosopher appointed as one of five international observers at the trial in Zeist, Holland, by U.N. Secretary General Kofi Annan, issued a well-merited denunciation of the judges' bizarre conclusion. "In my opinion," Koechler said, "there seemed to be considerable political influence on the judges and the verdict."

Koechler pointed out that the judges found Megrahi guilty even though they themselves admitted that his identification by a Maltese shop owner (summoned by the prosecution to testify that Megrahi bought clothes, later deemed to have been packed in the lethal suitcase bomb) was "not absolute" and that there was a "mass of conflicting evidence."

Furthermore, Koechler queried the active involvement of senior U.S. Justice Department officials as part of the Scotch prosecution team "in a supervisory role."

The Threadbare Case

In essence, the case was based (a) on the presumption that the bomb timer on the Pan Am plane was from a batch sold by a Swiss firm to Libya; (b) that fragments of clothing retrieved from the crash site and identified as having been in the suitcase that contained the bomb, had been bought by the accused Megrahi from a shop in Malta; and (c) that a "secret witness," Abdulmajid Gialka, a former colleague of the accused pair in the Libyan Airlines office in Malta, would testify that he had observed them either constructing the bomb or at least seen them loading on the plane in Frankfurt.

The prosecution was unable to produce evidence to substantiate any of these points or to encourage any confidence in Gialka's reliability as a witness. The Swiss manufacturer of the timer, Edwin Bollier, testified he had sold timers of a similar type to the East Germans and conceded, under cross-examination by defense lawyers, that he had connections to many intelligence agencies, including not only the Libyans but also the CIA.

By the time of the trial, Gialka had been living under witness protection in the U.S.A. He had received $320,000 from his American hosts and, in the event of conviction of the accused, stood to collect up to $4 million in reward money. He had CIA connections, so the defense lawyers learned, before 1988.

The prosecution's case absolutely depended on proving beyond a reasonable doubt that Megrahi was the man who bought the clothes, traced by police to a Maltese clothes shop. In nineteen separate statements to police prior to the trial the shopkeeper, Tony Gauci, had failed to make a positive identification of Megrahi. In the witness box, Gauci was asked five times if he recognized anyone in the courtroom. No answer. Finally, the exasperated prosecutor pointed to the dock and asked if the man sitting on the left was the customer in question. Even so, the best that Gauci could do was to mumble that "he resembles him."

Gauci had also told the police that the man who bought the clothes was 6 feet tall and over 50 years of age. Megrahi is 5 feet 8 inches tall, and in late 1988 he was 36. The clothes were bought either on November 23 or December 7, 1988. On an earlier occasion, when shown a photograph of Mohammed Abu Talb, a Palestinian terrorist whom the defense contended was the real bomber, Gauci used almost the same words with more confidence, declaring, according to his brother, that Talb "resembles" the clothes buyer "a lot." Gauci's identification of Megrahi at the identity parade just be-

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fore the opening of the trial was with the words, "not exactly the man I saw in the shop. Ten years ago I saw him, but the man who look [*sic*] a little bit like is the number 5" (Megrahi).

Megrahi was in Malta on December 7 but not on the November date. The shopkeeper recalled that the man who bought the clothes also bought an umbrella because it was raining heavily outside. Maltese meteorological records introduced by the defense showed clearly that while it did rain all day on November 23, there was almost certainly no rain on December 7. If it did rain on that date, the shower would have been barely enough to wet the pavement. Nevertheless, the judges held it proven that Megrahi had bought the clothes on December 7.

No less vital to the prosecution's case was its contention that the bomb that destroyed Pan Am 103 had been loaded as unaccompanied baggage onto an Air Malta flight to Frankfurt, flown on to London, and thence onto the ill-fated flight to New York. In support of this, prosecutors produced a document from Frankfurt airport indicating that a bag had gone from the baggage-handling station, at which the Air Malta bags (along with those from other flights) had been unloaded, and had been sent to the handling station for the relevant flight to London. But there was firm evidence from the defense that all the bags on the Air Malta flight were accompanied and were collected at the other end. Nevertheless, the judges held it proven that the lethal suitcase had indeed come from Malta. When Granada TV, in the U.K., broadcast a documentary asserting such a transfer as a fact, Air Malta sued and extracted damages.

The most likely explanation of the judges' decision to convict Megrahi despite the evidence, or lack of it, must be that either they panicked at the thought of the uproar that would ensue on the U.S. end if they let both the Libyans off, or they were simply given their marching orders by high authority in London. English judges are used to doing their duty in this manner – see, for example, the results of various "impartial" judicial inquiries into British atrocities in Northern Ireland over the years.

In closing arguments, the prosecution stressed the point that Megrahi could not have planted the bomb without the assistance of Fhimah – that both defendants were equally guilty, and should stand or fall together. Nevertheless, the judges elected to find one of the two conspirators guilty and the other one innocent, a split verdict that Koechler found "incomprehensible." It is, however, entirely comprehensible if we accept that the judges knew there was no evidence to convict either man, but that it was politically imperative for them to convict at least one.

Iran the Likely Sponsor

A former CIA official and friend of *CounterPunch* told us back at the time of the original trial in 2000 (see *CounterPunch* newsletter 15 in that year) that he had taken part in the original investigation of the Pan Am 103 bombing. He said that if the original CIA report

The evidence in the CIA's possession pointed more clearly in the direction of the original suspects in the case, members of a group known as the PFLP-GC, closely linked to Iran.

was ever to be made public, it would provide "damning evidence" that "the Libyans were never directly involved in the Lockerbie bombing." In fact, the evidence in the CIA's possession pointed more clearly in the direction of the original suspects in the case, members of a group known as the PFLP-GC, closely linked to Iran.

The Iranians had a clear motive for an attack on an American airliner, following the destruction of an Iranian Airbus over the Persian Gulf carrying 290 passengers, including 66 children, on July 3, 1988. The U.S. Navy missile carrier Vincennes had casually blown it out of the sky despite clear indications it was a civilian plane. Afterward, the U.S. Navy concealed the fact that the Vincennes had been in Iranian territorial waters at the time, refused to admit error or pay compensation, and handed out medals to the ship's officers for heroism in combat.

The initial U.S. and British investigations pointed clearly to a case against the Iranians as having contracted with the Lebanon-based PFLP-GC, or a section thereof, to exact retribution. Two months before Lockerbie, the West Germans arrested members of this group outside Düsseldorf as they were preparing bombs specifically designed to bring down airliners. U.S. intelligence had traced a payment of $500,000 into the account of a professional bomber, Abu Talb, in April 1989. A British journalist showed the Maltese shop owner who sold the clothes found in the bomb-suitcase a photo of Talb, and he declared that the man in the photo "most resembled" the purchaser. At one point, the Scottish police were about to charge Talb who had, since 1989, been serving time in a Swedish jail for a series of bomb attacks in Sweden and Denmark.

In March 1989, however, Margaret Thatcher called President G.W.H. Bush to discuss the case. The two leaders agreed it was important to "cool it" on the Iranian angle, since they were in no position to punish the Tehran regime, which had just survived the eight-year war with U.S./U.K.-sponsored Iraq. Following the Iraqi invasion of Kuwait in August 1990, it became more imperative than ever to obscure any suspicion of Iranian complicity in the Lockerbie bombing, given the importance of Iranian assistance in the upcoming war with Saddam Hussein. Thus the perennial "rogue," Mummar Qaddafi, was drafted as the suspect of choice, with Megrahi as his instrument.

Health Plans and Death Plans

The first illusion to chase off the stage is that the great debate over health care across the past few months has much to do with health. So far as public health is concerned, many of the biggest victories were won a hundred years ago, at the end of the nineteenth century, with better nutrition, birth control, the change from wool to cotton clothing, the introduction of modern sanitation in the urban environment and – most important – clean water.

Between 1900 and 1973, American life expectancy went from 47 to 71, but most of this rise had taken place by 1949, when the average life span reached 68. Much of the upward curve could be attributed to improved survival rates for infants and young people. Prohibition helped, since people drank less alcohol, ate more, and hence TB rates dropped sharply, well be-

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fore the introduction of sulfa drugs.

Health in America is class-based, naturally. The poor die sooner, starting with black men who tend to drop dead in their middle 60s, usually from stress and diseases consequent on diet. The better-off folk drink less than they did in the 1950s, take a bit more exercise, and sometimes live longer. The poor get fatter and fatter. A real health plan would start with public executions of the top thousand CEOs and owners of the major food companies and fast food franchises. It would continue with penalties for health workers not washing their hands or merely holding them under the tap without using soap.

The plagues of America today are beyond the reach of the modern medical system, and that system is itself a peculiarly outrageous example of antisocial imperatives: high technology health care which serves fewer and fewer people. Part and parcel of this system are the drug companies, working in concert with the hospitals and insurance industry. Doctors have long since been shoved to the side, no longer major players.

Mostly shunned in all this are the major causes of modern disease, which are environmental. Between 70 and 90 per cent of all cancers are environmental in origin. Heart disease and stroke – the largest killers today – are largely caused by hypertension and stress, which are derived from social conditions.

America is very efficient in promulgating Death Plans – tobacco, sugar additives, excessive salt, nitrous oxides out of power plant chimneys, nuclear testing in the 1950s, industrial accidents, speed-up at work and lengthening of the working day, rush-hour traffic – launched in the hope of making a buck and protected fiercely until, very occasionally, the mountain of corpses gets too high to be occluded by even the most refined techniques of the PR industry and the most lavish contributions to politicians. Thus it was with tobacco.

Health reform in the 1930s, in the Roosevelt era, came mostly in the guise of the Wagner Act – a better deal for unions and workers – and Social Security. Old people got something to live on in their later years. Health reform in the 1950s and 1960s came with better wages, a shorter working week, more leisure, plus Medicare – the federal health plan for older people – driven through Congress by the most consummately cunning and accomplished politician of the postwar era and maybe of the twentieth century (unless you make the case for FDR), Lyndon Johnson, who really did care about poverty, having seen a lot of it up close in Texas.

Since then, we've gone nowhere. Nixon declared war on cancer and founded the Environmental Protection Agency – but corporate pollution continued virtually unabated, courtesy of the energy industry and modern, chemical-based agriculture. Nixon did promote a health plan in his 1974 State of the Union speech, calling for call for universal access to health insurance. He followed up with his Comprehensive Health Insurance bill on February 6, 1974. Nixon said his plan would build on existing employer-sponsored insurance plans and would provide government subsidies to the self-employed and small businesses to ensure universal access to health insurance. The late Senator Ted Kennedy worked with the Nixon White House on it, but in the end the AFL-CIO, probably with a covert nudge from Kennedy, killed the bill because Nixon was vanishing under the Watergate scandal and the Democrats did not want to hand the president and the Republicans one of their signature issues.

In 1977, the Senate Select Committee on Nutrition, chaired by George McGovern, issued a splendid special report on recommended dietary goals for the United States. It swiftly provoked the virulent hostility of the medical establishment and the food industry. The former contested the idea that diet might have any particular bearing on health and hotly denounced this particular application of the notion of preventive medicine. The latter, for obvious reasons, saw no reason to welcome the Committee's recommendation that Americans eat less meat. The injunction was axed from the report a year later.

The neoliberal attack on regulations has been a health catastrophe. Take accidents – injuries and deaths – at the work place. As JoAnn Wypijewski wrote on the *CounterPunch* site earlier this year, "Because of under-reporting, the number of injured workers every year is likely closer to 12 million than the official 4 million. The 50,000 to 60,000 who die from occupational diseases each year cannot be a hard estimate; cancer, for instance, doesn't usually come with a pedigree. Even the precision of deaths on the job (40,019 workers between 2001 and 2007, the latest year for which there are available figures and not counting the 9/11 dead) has to be qualified; the number does not account for the fates of 8.8 million public sector workers not covered by OSHA. It does not include deaths in the underground economy.

Typically, Democratic presidents like Clinton and now Obama commit during their campaigns for some kind of "reform," usually meaning some pledge that the "disgrace" of 45 million or so uninsured Americans will end. In 1993, the Clintons tried "health reform"– a monstrosity that I described at the time as looking like a collaboration between Mondrian and Jackson Pollock. The insurance industry and lobbyists ate it for breakfast. The radical reformers argue for a national insurance scheme, like Canada's, where the state can use its purchasing weight to drive down drug prices, set rates, clean up the system.

It's not going to happen. The insurance industry, the drug industry, the real estate and finance sector are the most powerful forces in the country. They're not going to surrender the treasure trove known as healthcare without serious bloodletting on the barricades. So, Obama finally produced a timid compromise, whereby uninsured people would be herded under various health insurance umbrellas with "a public component." Even if the health industry's hired man, Senator Max Baucus, had not deep-sixed the public component, the insurance industry could swallow it like a python swallowing a field mouse.

It's sometimes argued that a decent single payer system would be functional to U.S. capitalism, since industries like the auto sector would be liberated from the burden of health costs. There are scores of decent policies that would be functional to U.S. capitalism. But the soul of U.S. capitalism is wedded to indecency. Consider torture and the death penalty. Critics of these procedures sometimes argue that they don't work, or are inefficient. People spout out lies amid their torments. Innocent people die in the gas chamber and the justice system is injured in reputation thereby. But the real allure of torture and capital punishment for the owners of the system is to instill fear and compliance precisely by the demonstration of vindictive irrationality. **CP**

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Next they'll try to patent Ayahuasca (they already did)

The Ugly Saga of the Bean Biopirate

By Elyssa Pachico

In the summer of 1999, Rebecca Gilliland was sure she was about to make her first million, and it was all thanks to a thin-skinned, oblong and brightly gold-colored bean.

"Once you've tasted mayocoba beans, there's nothing like it," Gilliland says, the owner of a small fruit and vegetable business in Rio Rico, Arizona. "It doesn't taste like pinto beans, it doesn't taste like black beans. It absorbs the flavor of whatever it's cooked with and the result is absolutely delicious."

Gilliland's produce company could barely keep up with customer demand for the mayocoba, importing about six millions pounds from Mexico and shipping in bulk to cities as far away as Los Angeles and Chicago. But that was before she opened a letter mailed from Red Beard Bean Co., another small produce business based in Delta, Colorado. The mayocoba, Gilliland learned in shock, was no longer hers to sell.

"We received notification that these guys had placed a patent on the bean, and that it was illegal for us to keep them in the market," she says. "I absolutely thought it was a joke. All I could think was I grew up eating this bean in Mexico, and now these guys are telling me they invented it. It was like, are you kidding me?"

The mayocoba case is the latest in a long string of patent piracies within the last decade that have enraged independent farmers and seed breeders from Mexico to India. Patenting inventions like herbicide-resistant cotton or high-protein maize has proved enormously successful for multinational biotechnology giants like Monsanto and DuPont. Likewise, the allure of easy royalties is increasingly tempting other "biopirates" to claim ownership of crops that aren't their inventions at all, and have been harvested by indigenous farmers for centuries.

The patent on mayocoba – No. 5,894,079 – was successfully filed in April 1999 by Larry Proctor, a Colorado native who affectionately dubbed the bean "enola," after his wife's middle name. He first bought a package of "enolas" during a trip to Mexico in 1994, when the bright yellow color caught his eye while he was wandering through a local market.

With a thumbs-up from the U.S. Patent & Trademark Office, Proctor now had the power to essentially block Mexican farmers from exporting mayocoba into the U.S.A., insisting they pay him 6 cents per pound in royalties. Sixteen other U.S.-based seed companies and farms, including Gilliland's Tutuli Produce business, were promptly slapped with lawsuits for supposed patent infringement. Intellectual property laws meant that farmers could not plant or re-plant the yellow beans without first paying Proctor licensing fees. If unchallenged, the patent could stand for up to the next twenty years.

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"It was like the whole thing came crashing down on us," said Gilliland, who, with a huge inventory of beans in stock, was unable to sell any of it. Instead of the $1 million that she'd envisioned, her profit off the mayocobas that year was four cents. "And the damage was done in Mexico," she adds. "There are a lot of farmers there who don't have the money to grow tomatoes or corn or things like that. It's all about beans. And here's this guy with this ridiculous patent saying, I invented this bean and you're stealing it from me."

The "enola" fiasco caught the attention of watchdog farmers' rights groups. In December 2000, a public seed bank and research center based in Colombia, known as CIAT, filed a challenge against the patent on behalf of farmers. It took eight years before the U.S. Patent & Trademark Office finally ruled that it had erred in Proctor's favor, a decision that was upheld on July 10, 2009, by the U.S. Court of Appeals of the Federal Circuit.

Proctor was able to successfully file his patent by pointing to the mayocoba's intense yellow color, claiming that he had successfully bred this innovation himself through years of careful selection. By combing through the 28,000 dry bean seeds stored in CIAT's gene bank, scientists found a different story: there were at least six yellow beans that were virtually genetically identical to Proctor's.

"We were able to prove that particular, intense yellow color was existing in bean varieties in the United States and northern Mexico long before the patent application," said Dr. Daniel Debouck, a geneticist at CIAT. "There was no real novelty there."

It hasn't been the first time that entrepreneurs have sought legal protections for agricultural "novelties" that aren't anything new. RiceTec, a Texan company, has tried to patent various strains of Indian basmati and Thai jasmine rice, to great protest from the Indian government. There have been other unsuccessful attempts: to patent a biotechnological process involving turmeric; also a diabetes remedy using rose apple tree *(Syzygium jambos)* extract that Indian peasants have known of for centuries; also, of all things, ayahuasca, an Amazonian jungle vine used in shamanic rituals (also these days a thriving tourist business) that causes visions as well as some unpleasant physical side-effects.

These kinds of abuses, along with Monsanto's effort to patent all genetically modified soybeans grown anywhere in the world, has led Kathy JoWetter, a representative from ETC Group, an environmental rights organization, to call the patent system "broken, on both sides of the Atlantic."

"It's up to countries to decide what is the best [patenting] system for them," says Debouck. "You can have one country where it's all about plant breeders' rights, and another where it's all about protecting utility patents." What matters, he said, is that patent offices stop granting rights on crops that can already be found in public seed banks, and instead protect

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novel crop varieties when they're precisely that: novel. "What is very important for creativity and for the continuing success of any patent system is that the protection offices are granting right to true innovations."

But, as the "enola" bean case has demonstrated, when it comes to patent laws, it's rarely the small farmers who are protected. "Mexican and U.S. farmers who suffered damages as a result of this unjust monopoly will never be compensated for their losses," says another representative from ETC Group, Silvia Ribeiro, regarding the mayocomo case. "Patent law has no mechanism to compensate farmers and indigenous peoples who are victimized by predatory patent abuses."

Complicating matters is the fact that even when individuals like Proctor or multinationals like Monsanto demand total control over their seeds, not even a Big Brother-like "gene police" would be able to regulate something as tiny and highly transportable as a handful of beans. Gilliland says that Proctor told customs agents at the U.S.-Mexico border to inspect her bean shipments from Mexico. "It caused all kinds of trouble to our company, everybody always checking every single thing, constantly," she says.

Public research centers like CIAT are also increasingly considering operating like private seed companies – that is, charging a royalty for the use of a transgenic seed developed within the center.

"Mexican and U.S. farmers who suffered damages as a result of this unjust monopoly will never be compensated for their losses."

Such strategies become more and more necessary as national governments pull funding from places like CIAT. And with biotechnology research in universities increasingly geared toward supporting private interests, public centers may be the only place left where research could actually respond to the needs of poor farmers.

So, what kind of patent system could protect small-scale farmers and breeders like Gilliland from biopiracy, but also help fund public research centers trying to develop pro-poor agricultural technologies? One possible solution: patent everything already inside the public seed banks, but then don't charge royalties. CIAT's parent company, a public gene bank known as CGIAR, manages a vault with about 600,000 seeds – and if those 600,000 seeds already had patents, biopirates would have no legitimacy in claiming they'd "invented" something that, in fact, already existed.

While it is still possible that Proctor may decide to take his case to the Supreme Court, for some, like Gilliland, whatever happens now to the mayocoba is sure to resonate with small-scale farmers across the globe.

"The customers want the beans," she says. "People have been eating them for thousands of years, you know. How can you come in and say you own something like that?" **CP**

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